

## STATE HEALTH COUNCIL

August 11, 2015

A meeting of the State Health Council was called to order by Chairman Gordon Myerchin at 9:00 a.m. on Tuesday, August 11, 2015 in AV Room 212 of the Judicial Wing, State Capitol, Bismarck, ND.

### Members present:

Gordon Myerchin, Grand Forks, Chairman  
Wade Peterson, Mandan, Vice Chairman  
Mike Jones, Bismarck, Secretary (*phone*)  
Howard Anderson, Turtle Lake  
Genny Dienstmann, Bismarck  
Leona Koch, Raleigh  
Jennifer Schaeffer, Medora (*phone*)  
Dennis Wolf, MD, Dickinson

### Members absent:

Greg Allen, Jamestown  
Jerry Jurena, Bismarck  
Duane Pool, Bismarck

### Staff members present:

Terry Dwelle, MD, State Health Officer  
Arvy Smith, Deputy State Health Officer  
Darleen Bartz, Health Resources Section  
Kelly Nagel, Public Health Liaison  
Kodi Pinks, Children's Special Health Services  
Scott Radig, Division of Waste Management  
Karol Riedman, Internal Auditor  
Londa Rodahl, Recording Secretary  
Brenda Weisz, Division of Accounting

### Others present:

Mary Amundson – UND Primary Care Office (*by phone*)  
Nicole Donaghy  
Lauren Donovan – Bismarck Tribune  
Darrell Dorgan  
Edward Erickson – Assistant Attorney General  
Marie Hoff  
Ben Smith (reporter) and cameraman – KXMB TV Bismarck  
Samuel Sticka, DDS (*by phone*)

### Minutes

HOWARD ANDERSON MOVED APPROVAL OF THE APRIL 15, 2015 MINUTES WITH THE CORRECTED SPELLING OF "ATKINS" IN THE SECOND TO LAST PARAGRAPH ON PAGE 2. SECOND AND CARRIED.

### NDAC 33-24, Hazardous Waste Management Rules

Scott Radig presented the amendments to Article 33-24, Hazardous Waste Management. The Division of Waste Management has primacy for the hazardous waste program. To maintain primacy from EPA, the state administrative rules must be equivalent with the federal rules. These proposed amendments have been implemented at the federal level in various stages for up to ten years. The Attorney General's legality opinion was received on July 29, 2015 and he requested the Council's adoption of these amendments.

MIKE JONES MOVED THE ADOPTION OF AMENDMENTS TO NDAC 33-24, HAZARDOUS WASTE MANAGEMENT. SECOND BY WADE PETERSON.

The Chair requested a roll call vote and the MOTION CARRIED. Anderson, Dienstmann, Jones, Koch, Myerchin, Peterson, Schaeffer, and Wolf voted 'aye'. There were no 'nay' votes. Allen, Jurena and Pool—absent.

### NDAC 33-10-23 & 33-20-11, TENORM Rules

Mr. Radig presented the amendments to Chapters 33-10-23 and 33-20-11 concerning technically enhanced naturally occurring radioactive material (TENORM). Three public hearings were held (Williston, Bismarck and Fargo) and the public comment period was extended about 80 days. He requested the Council's adoption of these amendments, contingent upon approval of the Attorney General.

MIKE JONES MOVED THE ADOPTION OF AMENDMENTS TO NDAC 33-10-23 AND 33-20-11 REGARDING TECHNICALLY ENHANCED NATURALLY OCCURRING RADIOACTIVE MATERIAL, CONTINGENT UPON APPROVAL OF THE ATTORNEY GENERAL. SECOND BY HOWARD ANDERSON.

Darrell Dorgan addressed the Council questioning if this was a regular or special Health Council meeting, how the meeting was publicized and why it was being held in AV 212. It was explained this was a regular meeting; that a press release was sent and notice was posted on the Secretary of State's public meeting website; and Health Council meetings are usually held in AV 212.

Mr. Dorgan stated he formally objected to the meeting as being illegal until it was determined whether it was properly publicized. Mr. Myerchin assured him that his objection would be noted in the record, however, the meeting would continue.

The Chair requested a roll call vote and the MOTION CARRIED. Anderson, Dienstmann, Jones, Koch, Myerchin, Peterson, Schaeffer, and Wolf voted 'aye'. There were no 'nay' votes. Allen, Jurena and Pool—absent.

### **NDAC 33-03-34, Autism Spectrum Disorder Database Rules**

Kodi Pinks presented the new chapter 33-03-34 regarding the autism spectrum disorder database. The Attorney General's legality opinion was received July 31, 2015. She requested the Council's adoption of these rules.

DENNIS WOLF MOVED THE ADOPTION OF NDAC 33-03-34, AUTISM SPECTRUM DISORDER (ASD) DATABASE. SECOND BY WADE PETERSON.

The Chair requested a roll call vote and the MOTION CARRIED. Anderson, Dienstmann, Jones, Koch, Myerchin, Peterson, Schaeffer, and Wolf voted 'aye'. There were no 'nay' votes. Allen, Jurena and Pool—absent.

### **Loan Repayment Applications & Programs**

Mary Amundson presented the federal/state loan repayment program (SLRP) application for Tallie Schneider. This program requires match from the community to the federal grant.

Ms. Schneider is a 2011 NDSU pharmacy graduate. She has been working at Heart of America Medical Center, which is a hospital/clinic in Rugby, for four years. The facility is located in a primary care health professional shortage area (HPSA), which is one of the requirements for eligibility. She is requesting \$20,000 per year for two years (\$10,000 per year from the community, \$10,000 per year from the federal grant). Her application included strong letters of support. Ms. Amundson recommended approval of this application.

GENNY DIENSTMANN MOVED THE APPROVAL OF THE LOAN REPAYMENT APPLICATION OF TALLIE SCHNEIDER FOR \$20,000 PER YEAR FOR TWO YEARS. SECOND BY LEONA KOCH.

The Chair requested a roll call vote and the MOTION CARRIED. Anderson, Dienstmann, Jones, Koch, Myerchin, Peterson, Schaeffer, and Wolf voted 'aye'. There were no 'nay' votes. Allen, Jurena and Pool—absent.

Ms. Amundson is developing a manual with information and policies on all the loan repayment programs. She hopes to have it completed by the next Health Council meeting for the Council's review and approval. For that manual, she requested clarification on the following legislative issues for all the programs: 1) should proof of licensure or proof that they have applied for licensure be required for loan repayment applicants; 2) what is considered full-time – 40 hours or 32 hours; 3) definition of clinical psychologist; and, 4) whether a provider (other than a dentist, which is already allowed in state law) is eligible to reapply for loan repayment.

On these four issues, the Council decided, subject to reconsideration once they review the manual: 1) to be in line with federal guidelines, we will require proof of licensure or proof of licensure application; 2) for all disciplines, 40 hours will be considered full-time; 3) the definition of a clinical psychologist will be researched to determine if it's already in

state law or rule; and 4) the other loan repayment program applicants would be allowed to reapply.

The North Dakota Century Code states the Health Council can establish criteria for the loan repayment programs. Therefore, once the manual is complete, the Council will likely put the criteria into administrative rules.

Ms. Amundson reviewed the information pertaining to Dr. Samuel Sticka, who provided 1.25 years of dental services at the Family Healthcare Center in Fargo. He chose to not fulfill his loan repayment contract by moving back to Dickinson to open a private practice. At the Health Council's April 15, 2015 meeting, the Council was informed he would be repaying the \$30,000 loan since he was breaching his contract by failing to complete the obligated service. The ND Century Codes states: "If a grantee breaches the loan repayment contract by failing to begin or failing to complete the obligated service, the grantee is liable for the total amount of any loan repayment funds received."

However, since the April meeting, both he and his mother sent letters asking the Council to reconsider the repayment of \$30,000. The Health Council has the discretion to request a lesser amount be repaid. Dr. Sticka feels the reconsideration would be due to the facts that he: is serving the same type patients as in Fargo; had fully intended to stay in Fargo for the duration of the contract and beyond; and that the Dickinson practice presented itself unexpectedly and he couldn't pass up the private practice opportunity.

HOWARD ANDERSON MOVED THAT SAMUEL STICKA, DMD, BE HELD TO HIS DENTIST LOAN REPAYMENT CONTRACT AND PAY BACK THE \$30,000 BUT THAT HE CAN REAPPLY UNDER THIS LOAN REPAYMENT PROGRAM. SECOND BY WADE PETERSON.

While Dr. Sticka was being contacted to call in, Marie Hoff and Nicole Donaghy asked to be recognized. They both expressed their objections to this meeting due to the fact that they felt it was an illegal meeting since they didn't feel ample meeting notice was given. The chairman duly noted their objections.

Mr. Myerchin told Dr. Sticka about the motion on the floor but that it hadn't been voted on yet. Dr. Sticka stated he had a great 2-year experience at the Fargo Healthcare Center. After his graduation he had hoped to go back to Dickinson but there were no opportunities at the time. He went to Fargo and at the end of his 2-year contract he intended to apply for the dental director position. However, his family dentist informed him he was planning to retire and would Dr. Sticka like to buy his clinic. Dr. Sticka felt it was an opportunity he couldn't turn down. He's seeing all types of patients from Dickinson and the surrounding area, including Montana; he accepts all insurances; has made connections with the ER physicians and sees five or six emergencies daily. He felt that with his work in Fargo he was hoping the Council would reconsider its April 15<sup>th</sup> decision for him to repay the \$30,000 for defaulting on his contract.

Dr. Sticka thanked the Council for allowing him to speak. Mr. Myerchin offered him the option to stay on the phone to hear Council discussion and the vote but he said he had a patient waiting. The Council had further discussion.

The Chair requested a roll call vote and the MOTION CARRIED. Anderson, Dienstmann, Jones, Koch, Myerchin, Peterson, Schaeffer, and Wolf voted 'aye'. There were no 'nay' votes. Allen, Jurena and Pool—absent.

Ms. Amundson presented the information on Drs. Luke and Julia Allen. They left their practice in Watford City without informing anyone and moved to Texas. They both received an \$80,000 contract but Luke was in Watford City a year before Julia and he received \$20,000 after his first year. They have received no other funds since his second year wasn't completed and her first year wasn't completed. They are both still requesting the funding even though they are no longer here since they feel they provided the medical care and tried to make it work in Watford City.

WADE PETERSON MOVED THAT DRS. LUKE AND JULIA ALLEN MUST REPAY THE \$20,000 AND THAT DR. JULIA ALLEN WON'T BE ABLE TO RECEIVE ANY FUNDING SINCE THEY DEFAULTED ON THEIR CONTRACTS. SECOND BY DENNIS WOLF.

The Chair requested a roll call vote and the MOTION CARRIED. Anderson, Dienstmann, Jones, Koch, Myerchin, Peterson, Schaeffer, and Wolf voted 'aye'. There were no 'nay' votes. Allen, Jurena and Pool—absent.

#### **Section Update**

Darleen Bartz presented an update of the Health Resources Section.

#### **Legislative Update**

Arvy Smith reviewed the Department's 2015-17 budget as well as the legislative actions relating to the budget and employees.

#### **Election of Officers**

Election of officers was held for the next year: Wade Peterson, Chairman; Genny Dientsmann, Vice Chairman; Leona Koch, Secretary.

#### **Other Business**

Karol Riedman reported the State Health Council Audit Committee had discussed what could make the internal audit function more effective. Besides overseeing the work of the internal audit function, the Committee also conducts her annual performance evaluation. The Committee feels they are lacking an adequate background of the internal audit process to effectively evaluate and review Karol's work and performance. Several different ideas were suggested and one of those would be to add an ad hoc member to this committee that does have an internal audit background. This person could be an outside person, not a Health Council member.

GENNY DIENTSMANN MOVED THAT AN AD HOC MEMBER BE ADDED TO THE STATE HEALTH COUNCIL AUDIT COMMITTEE. SECOND BY LEONA KOCH.

The Chair requested a roll call vote and the MOTION CARRIED. Dienstmann, Jones, Koch, Myerchin, Peterson, Schaeffer, and Wolf voted 'aye'. Anderson voted 'nay'. Allen, Jurena and Pool—absent.

Kelly Nagel stated the Burleigh County Health Board is still considering creating its own public health department. She and Dr. Dwelle will be attending a meeting with them tomorrow and are wondering if the Health Council wants to abide by their February 10, 2015 decision on what services constitute those that must be provided by a local public health department.

At that February meeting, the Council also asked that the department form a subcommittee with local public health to better define the core functions. That subcommittee was formed and looked more closely at those core functions, which they found were too ambiguous. They then looked at a project currently underway by the Public Health Leadership Forum. She reviewed this information that was recently approved by the state's local public health administrators as more completely defining the services that should be provided. She asked for the Council's decision on which criteria should be used.

GENNY DIENTSMANN MOVED THAT THE STATE HEALTH COUNCIL CHANGE ITS 2-10-15 DECISION FROM THE *PUBLIC HEALTH IN AMERICA* CORE FUNCTIONS BEING WHAT CONSTITUTES A LOCAL PUBLIC HEALTH UNIT TO THE *PUBLIC HEALTH LEADERSHIP FORUM'S* FOUNDATIONAL PUBLIC HEALTH SERVICES (Communicable Disease Control; Chronic Disease & Injury Prevention; Environmental Health; Maternal, Child & Family Health; and Access to and Linkage with Critical Care). SECOND BY LEONA KOCH.

The Chair requested a roll call vote and the MOTION CARRIED. Anderson, Dienstmann, Koch, Myerchin, Peterson, and Wolf voted 'aye'. There were no 'nay' votes. Allen, Jones, Jurena, Schaeffer and Pool—absent.

The meeting adjourned at 12:05 p.m.

Submitted,

Mike Jones, Secretary